

August 30, 1996

D.P.U. 96-8C

Application of Western Massachusetts Electric Company:

(1) under the provisions of G.L. c. 164, § 94G and the Company's tariff, M.D.P.U. 896, for approval by the Department of Public Utilities of the semi-annual fuel charge, as adopted in D.P.U. 95-8A, to be billed to the Company's customers pursuant to meter readings beginning in the billing month of September, 1996; and

(2) for approval by the Department of rates to be paid to Qualifying Facilities for purchases of power pursuant to 220 C.M.R. §§ 8.00 et seq. and M.D.P.U. 586 during the same period of time. The rules established in 220 C.M.R. §§ 8.00 et seq. set forth the filings to be made by electric utilities with the Department, and implement the intent of §§ 201 and 210 of the Public Utilities Regulatory Policies Act of 1978.

---

APPEARANCES: Lisa M. Vazza, Esq.  
1000 Elm Street, P.O. Box 330  
Manchester, New Hampshire 03105-0330  
FOR: WESTERN MASSACHUSETTS ELECTRIC  
COMPANY  
Petitioner

L. Scott Harshbarger, Attorney General  
By: Joseph W. Rogers  
Assistant Attorney General  
200 Portland Street  
Boston, Massachusetts 02114  
Intervenor

## ORDER ON OFFER OF SETTLEMENT

### I. INTRODUCTION

On August 5, 1996, pursuant to G.L. c. 164, § 94G and 220 C.M.R. §§ 8.00 et seq., Western Massachusetts Electric Company ("WMECo" or "Company") filed with the Department of Public Utilities ("Department") a proposed semi-annual change to its fuel charge in conformance with its tariff, M.D.P.U. 896, and to its Qualifying Facility ("QF") power purchase rates in conformance with its tariff, M.D.P.U. 586 ("Semi-Annual Fuel Charge").<sup>1</sup> The Company requested that both these changes be effective for bills issued pursuant to meter readings for the billing months from September, 1996 through February, 1997. This matter was docketed as D.P.U. 96-8C.

On August 13, 1996, the Company and the Attorney General of the Commonwealth ("Attorney General") filed a Joint Motion for Approval of Offer of Settlement ("Motion") and an Offer of Settlement ("Settlement"). The Settlement proposes a continuation of the fuel charge

---

<sup>1</sup> On March 2, 1995, the Department approved a semi-annual fuel charge proposal submitted by the Company that, subject to certain conditions, allowed WMECo to fix both the fuel charge and Qualifying Facility Rates for six months. Western Massachusetts Electric Company, D.P.U. 95-8A (1995). The Semi-Annual Fuel Charge will be reviewed at each quarterly filing (and at any interim filing) in accordance with Section 94G. Id. at 14. The Department found that the Semi-Annual Fuel Charge is consistent with G.L. c. 164, § 94G because the Company will (1) continue to file quarterly reports, with schedules consistent with those filed in prior WMECo fuel charge proceedings, which are subject to review to determine whether further adjustment is appropriate; (2) provide notice of quarterly filings; (3) allow a recognized intervenor an opportunity to question or contest the Semi-Annual Fuel Charge for the remaining three months at a public interim hearing; (4) appear at an evidentiary hearing if the Department and Attorney General determine it to be necessary; and (5) provide for a fuel charge adjustment every six months which is an appropriate interval under current circumstances. Id. at 12.

rate of \$0.01122 per kilowatthour ("KWH") established in Western Massachusetts Electric Company, D.P.U. 96-8A (1996) and Western Massachusetts Electric Company, D.P.U. 96-8B (1996) for the period September, 1996 through February, 1997. The Motion requests that the Department approve the Settlement by August 30, 1996 for bills issued pursuant to meter readings made on or after September 3, 1996. By its terms, the Department must approve the Settlement in its entirety or it is null and void.

Pursuant to notice duly issued, a public hearing on the Company's application was held on August 21, 1996 at the Department's offices in Boston. Notice of the public hearing was published in the Boston Globe, Springfield Union News, the Greenfield Recorder Gazette, the Berkshire Eagle, and the Daily Hampshire Gazette. The Company also complied with the requirement to mail a copy of the notice of the hearing to all persons with whom the Company has special retail contracts that do not incorporate a filed rate, and to all intervenors and their respective counsel from the Company's prior two fuel charge proceedings. The Attorney General intervened as of right pursuant to G.L. c. 12, § 11E. No petitions for leave to intervene were filed. At the hearing, the Company sponsored one witness, Robert A. Baumann, manager of fuel accounting and recovery for Northeast Utilities Service Company ("NUSCo"). The evidentiary record consists of three Company exhibits and one Company response to a Department record request.

The Company is a wholly-owned subsidiary of Northeast Utilities ("NU") of Hartford, Connecticut, a public utility holding company. WMECo and three other wholly owned subsidiaries, Connecticut Light and Power Company, Public Service Company of New

Hampshire, and Holyoke Water Power Company, furnish electric service in Connecticut, New Hampshire and western Massachusetts, respectively. Other wholly-owned subsidiaries of NU provide support services for NU companies, and in some cases, for other New England utilities. NUSCo provides engineering, technical, and other services to NU system companies. Northeast Nuclear Energy Company ("NNECO") acts as agent for the NU system companies and other New England utilities in operating nuclear generating facilities in Connecticut. North Atlantic Energy Service Corporation ("NAESCo") acts as agent for NU companies and other New England utilities in operating Seabrook. Two other subsidiaries, Rocky River Realty Company and Quinnehtuk Company are involved in real estate matters. NU has two other principal subsidiaries, Charter Oak Energy, Inc. and HEC Inc., which have non-utility businesses.

WMECo receives some of its power requirements pursuant to contractual rights from utilities both within and without the NU system. In addition, WMECo owns nine generating units. WMECo is engaged in the generation, transmission, and distribution of electric power to serve, on average during 1995, 193,948 customers in its service territory, which includes over 50 cities and towns in western Massachusetts. WMECo's total sales to ultimate customers, as shown in its 1995 annual report provided to the Department, were \$378,847,687.

## II. PROPOSED SETTLEMENT

The Settlement states that several nuclear units in which WMECo has an entitlement or ownership share<sup>2,3</sup> are now out-of-service (Exh. WM-3, at 1). The Settlement explains that there

---

<sup>2</sup> The Company witness testified that four of WMECo's nuclear units are currently out-of-service, Millstone 1, 2, and 3 and Connecticut Yankee (Tr. at 10).

is uncertainty surrounding the restart date for these units,<sup>4</sup> and there is insufficient time available to analyze properly the nuclear outages (id.). The Parties offer the Settlement with the intent of deferring any Department inquiry into the fuel expenses sought to be recovered by the fuel charge (id.). The Settlement notes the Department has adjusted the conventional fuel charge, subject to appropriate reconciliation and consistent with the goals of G.L. c. 164, § 94G, to mitigate the volatility of the fuel charge and to provide stability for ratepayers (id.).

According to the Settlement, the Company would continue its current fuel charge of \$0.01122 per KWH, as approved in D.P.U. 96-8A (1996) and D.P.U. 96-8B (1996) for the period September, 1996 through February, 1997 (id. at 2). For informational purposes, WMECo has filed documents showing a fuel charge calculation for the upcoming six-month period of \$0.02832 per KWH,<sup>5</sup> absent deferral of costs ( id.; Exh. WM-2, at 2). As for WMECo's Cogeneration and Small Power Producer rate for the period September, 1996 through February, 1997, the Settlement states that this rate shall be calculated on the actual avoided costs, as calculated by the Company on the six-month forecast fuel cost

---

<sup>3</sup> WMECo owns 19.0 percent (123.1 Megawatts ("MW")) of Millstone 1, a 647.7 MW nuclear unit; 19.0 percent (166.2 MW) of Millstone 2, a 874.5 MW nuclear unit; and 12.2 percent (140.2 MW) of Millstone 3, a 1145.7 MW nuclear unit. Western Massachusetts Electric Company, D.P.U. 96-34, at 1, 2 (1996). Under a life-of-the-unit contract, WMECo receives 9.5 percent (55.4 MW) of the output from Connecticut Yankee, a 531.0 MW nuclear unit. Id.

<sup>4</sup> The Company witness testified that it is preparing information to submit to the Nuclear Regulatory Commission ("NRC") for approval of the nuclear units to come back into service and it is not possible to project how long the NRC would take to act on WMECo's request (Tr. at 11).

<sup>5</sup> On August 13, 1996, the Company filed a calculation of \$0.02795 and revised this calculation on August 21, 1996 to \$0.02832 (Exhs. WM-1, at 1; WM-2, at 2).

(Exh. WM-3, at 3).

The Settlement states that the Company expects that it will under-collect fuel costs for this six-month period, and thus create a deferred fuel cost balance on its books (id. at 2). Under the terms of the Settlement, WMECo will not seek carrying charges on the deferred fuel cost balance it incurs during the period in which collection was deferred (id. at 3). The Parties agree that WMECo's collection of a deferred fuel cost balance be over a time period which the Department considers appropriate (id.). The Settlement notes, however, that the Company does not agree to defer recovery of any deferred fuel cost balance beyond September, 1997 (id.).

The Settlement states that the Attorney General will not oppose WMECo's collection of its deferred fuel cost balance on the grounds that the Company did not collect such amounts from September, 1996 through February, 1997; however, this will not restrict any position the Attorney General may choose to take regarding any past or future costs incurred or revenues foregone by the Company (id. at 3, 4). In addition, the Settlement states that by approving this Settlement, the Department would not deny recovery of the deferred fuel cost balance in this proceeding on the grounds that the Company deferred collection of fuel charge amounts and did not collect such amounts during the period from September, 1996 through February, 1997 (id. at 4).

The Settlement further provides that this proceeding shall be resolved according to the terms of the Settlement, without any findings by the Department as to the appropriateness of any fuel charge level, and that any order by the Department pursuant to the Settlement shall not constitute a determination as to the merits of any allegations or contentions made in this proceeding (id.). Further, the Settlement shall not be deemed to constitute an admission by the

Parties that any allegations in this proceeding are true or false (id.). The Settlement also provides that the content of negotiations shall be privileged and all offers of settlement shall be without any prejudice to the position of any party or participant presenting such offer (id.). Should the Department not approve the Settlement in its entirety, the Settlement provides that it shall be deemed withdrawn and not constitute any part of the record in this proceeding or be used for any other purpose (id. at 4, 5).

### III. ANALYSIS AND FINDINGS

In assessing the reasonableness of an offer of settlement, the Department must review the entire record as presented in a company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and public policy. See Western Massachusetts Electric Company, D.P.U. 96-8-CC (1996); Commonwealth Gas Company, D.P.U. 94-128 (1994); Western Massachusetts Electric Company, D.P.U. 94-12, at 4 (1994); Barnstable Water Company, D.P.U. 91-189 (1992). The principal issues presented by the Settlement are: (1) whether deferring the Company's fuel costs comports with the intent of the fuel charge statute; and (2) whether the proposal is in the public interest. See Western Massachusetts Electric Company, D.P.U. 95-8A (1995).

A. Fuel Charge

The Department "may approve an itemized fuel charge in rates filed by electric companies to reflect changes in prudently incurred reasonable costs of fuels and power purchased by such companies." G.L. c. 164, § 94G(b). In addition, the Department may "incorporate the use of any factors in addition to and not inconsistent with factors set forth in this section, in its considerations under any subsection hereof." G. L. c. 164, § 94G(e). The record indicates that the Company has incurred significant fuel costs because some of WMECo's nuclear generating facilities are out-of-service. It is difficult to quantify the extent of prudently incurred fuel costs because it is uncertain as to when the Company's nuclear facilities will return to service, and there is insufficient information available to analyze properly the nuclear outages. In light of these difficulties, the Department finds that an investigation into whether WMECo has prudently incurred reasonable fuel costs should be deferred until they can be properly ascertained consistent with the intent of the fuel charge statute.

Previously, the Department has found adjustments to the conventional quarterly fuel charge proposals consistent with G.L. c. 164, § 94G, Department precedent, and in the public interest. Western Massachusetts Electric Company, D.P.U. 95-8A at 14 (1995); Boston Edison Company, D.P.U. 94-1D at 16 (1994); Commonwealth Electric Company, D.P.U. 94-3A at 14 (1994); Fitchburg Gas and Electric Light Company, D.P.U. 92-5C at 7 (1992); Commonwealth Electric Company, D.P.U. 91-3B-1, at 7 (1991). In the instant case, the Department finds that deferring full recovery of the Company's fuel costs in this proceeding, with the objective of



preventing any fluctuation in the fuel charge (1) is in the public interest and (2) comports with the intent of the fuel charge statute.

B. Qualifying Facilities

Under the provisions of the Settlement, there would be no change regarding the Company's method for calculating its QF rates as approved in Western Massachusetts Electric Company, D.P.U. 95-8A (1995). The Company proposes the following standard rates to be paid to QFs for the period from September, 1996 through February, 1997:

Energy Rates By Voltage Level (Cents/KWH)

<u>Voltage Level</u>	<u>Peak</u>	<u>Off-Peak</u>	<u>Total</u>
Transmission	2.855	2.448	2.643
Bulk Substation	2.869	2.456	2.654
Service at Primary Distribution From:			
23 kV	2.932	2.495	2.701
13.8 kV	2.966	2.514	2.730
4.8/8.3 kV	3.161	2.607	2.866
Service at Secondary Distribution From:			
23 kV Primary	3.008	2.536	2.759
13.8 kV	3.045	2.556	2.788
4.8/8.3 kV	3.243	2.648	2.927

Exh. WM-1, at 164.

According to the Company, the short-run capacity rate is zero because currently WMECo does not purchase capacity from qualifying facilities to meet its New England Power Pool capability responsibility (id. at 178; RR-DPU-1).

In the instant case, the Department finds that the Settlement utilizes the previously approved method for calculating the QF rates and, therefore, the proposed QF rates (1) are in the public interest and (2) comport with the intent of the fuel charge statute.

C. SETTLEMENT

Based on our findings in regards to the fuel charge and because the previously approved method of calculating the QF rates is unchanged, we find that the Settlement is consistent with Department precedent and public policy. Therefore, we approve the Settlement. However, our acceptance of this Settlement does not constitute a determination or finding on the merits of any particular aspect of the Company's fuel charge filing and should not be interpreted as establishing precedent for further fuel charge filings.

D. FINDINGS

Based on the foregoing, the Department finds:

1. That the Company's proposed semi-annual fuel charge and purchased power charge terms contained in the Offer of Settlement are consistent with Department precedent and public policy. Accordingly, the Department approves the Offer of Settlement.

2. That the Semi-Annual Fuel Charge to be applied to Company bills issued pursuant to meter readings for the billing months from September 1996 through February 1997, shall be \$0.01122. (The calculation of the fuel charge is shown in Table 1 attached to this Order.)

3. That the Semi-Annual QF power purchase rates for the billing months from September, 1996 through February, 1997, shall be the rates set forth in Section III. B., above.

IV. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the Joint Motion for Approval of Offer of Settlement, filed with the Department on August 13, 1996, by Western Massachusetts Electric Company and the Attorney General, be and hereby is approved; and it is

FURTHER ORDERED: That the Western Massachusetts Electric Company is authorized to put into effect its Semi-Annual Fuel Charge of \$0.01122 per KWH as set forth in Section III. D., Finding 2 of this Order, for bills issued pursuant to meters reading for the billing months from September 1996 through February 1997, subject to refund; and it is

FURTHER ORDERED: That the fuel charge approved herein shall apply to kilowatthours sold to the Company's customers subject to the jurisdiction of the Department and shall be itemized separately on all such customers' electric bills; and it is

FURTHER ORDERED: That the Company's Qualifying Facility power purchase rates for the billing months from September 1996 through February 1997, shall be those set forth in the Table on page 8 of this Order; and it is

FURTHER ORDERED: That the Company, in all future fuel charge proceedings, shall notify all intervenors and their respective counsel from the Company's prior two fuel charge proceedings that it is proposing an adjustment to its fuel charge, and shall also notify these persons of the date scheduled for the hearing on the proposed fuel charge at least ten days in advance of the hearing; and it is

FURTHER ORDERED: That the Company, in all future fuel charge proceedings, shall provide all intervenors and their respective counsel from the prior two fuel charge proceedings with a copy of its fuel charge filing, in hand or by facsimile, on the same day it is filed with the Department; and it is

FURTHER ORDERED: That, pursuant to G.L. c. 164, § 94G (a) and (b), fuel costs allowed by this Order are subject to such disallowance as the Department may determine in any subsequent investigation of the Company's performance period that includes the quarter applicable to the present charges; and it is

FURTHER ORDERED: That the Company shall comply with all other directives contained herein.

By Order of the Department,

---

John B. Howe, Chairman

---

Janet Gail Besser, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).